

**REMARKS**

Claims 1-26 were previously pending in this application. Claims 2-9, 13-18 and 23-26 have been canceled without prejudice or disclaimer. Claims 1, 12, 21 and 22 have been amended herein. New claims 27-38 are added herein. Applicant submits that no new matter has been entered by way of this amendment. Applicant respectfully requests reconsideration of the application in view of the foregoing amendments and the following remarks.

**Drawing Objections**

The Office Action indicates that the drawings in the application have been objected to. More specifically, the Office Action indicates that Figures 2 and 3 should be designated with a legend such as Prior Art. Applicant has concurrently filed a copy of Figs. 2 and 3 marked-up in red ink, as well as a clean copy of Figs. 2 and 3 amended per the Examiner's suggestion. Accordingly, Applicant submits that the objection to the drawings has been overcome.

**Claim Rejections – 35 U.S.C. § 102**

Claims 1-22 have been rejected under 35 U.S.C. § 102(e), as being anticipated by Steinberg, et al., US Patent No. 6,151,073 ("Steinberg '073"). Applicant respectfully submits that the pending claims are patentably distinct from the cited reference.

Amended independent claim 1 recites, *inter alia*:

An apparatus...

wherein when a rate that a predetermined luminosity level occupies exceeds a reference point in a pattern of the

calculated histogram, said control unit controls an operation of an illumination device on the basis of luminance signals obtained by excluding luminance signals of predetermined luminance levels from the luminance signals.

Applicant submits that Steinberg '073 does not teach or suggest the elements recited in amended independent claim 1.

Instead, in Steinberg '073, a histogram is generated from a reflected light component and an exposure condition is determined by analyzing an exposure condition of an image with an analyze exposure on the basis of the distribution of the histogram. Steinberg '073 also discloses that the emission light control is performed so that overall image frame is used as an emission light control area.

However, the cited reference Steinberg '073 simply discloses that the exposure condition is determined as five types of conditions (i.e., Low Clipping, Under Exposure, Correct Exposure, Over Exposure and High Clipping) by the exposure analysis and that subsequent processing is implemented based on the which type of exposure condition is present. The Steinberg '073 patent executes an activation operation of a sample light that is performed based on the luminance signal obtained from an overall image frame during processing. Steinberg '073 does not disclose, teach or suggest a specified area that is selected or excluded from plural areas on the basis of a distribution of a specified component in a histogram that is generated from an image signal.

In contrast, as recited in amended independent claim 1, "said control unit controls an operation of an illumination device on the basis of luminance signals obtained by excluding luminance signals of predetermined luminance levels from the luminance signals." Accordingly, Applicant submits that controlling a light emission operation on the basis of a luminance signal of a selected area of an image frame, as in amended

independent claim 1, is not anticipated by controlling a light emission operation on the basis of a luminance signal of an overall image frame, as disclosed by Steinberg '073.

Therefore, Applicant submits amended independent claim 1, as well as the claims directly or indirectly dependent therefrom are patentably distinct from Steinberg '073, for at least this reason. Similarly, Applicant submits that amended claims 12, 21 and 22, the claims directly or indirectly dependent therefrom, as well as new claims 27-38 are also patentably distinct from the cited references for at least a similar reason.

**Claim Rejections – 35 U.S.C. § 103**

Claims 23-26 have been rejected under 35 U.S.C. § 103 (a), as being unpatentable over Steinberg '073, in view of Steinberg, et al., US Patent 6,006,039. Applicant submits that claims 23-26 have been canceled without prejudice or disclaimer and therefore the § 103 rejection has been rendered moot. Therefore, Applicant requests withdrawal of these grounds of rejections.

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**CONCLUSION**

Based on the foregoing amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims and allowance of this application.

Respectfully submitted,  
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